### 1

### NC

Moral disagreement justifies finding a more reliable process by which we can determine beliefs.

Sinhababu Neil Sinhababu (National University of Singapore) “The epistemic argument for hedonism” <http://philpapers.org/archive/SINTEA-3> JW

For a vivid illustration of how intensely we disagree about morality, consider a scene from the end of the Odyssey. Odysseus has returned home and killed the hundred suitors who sought his wife's hand. He and his son Telemachus bring[s] out twelve of the servant women, and make[s] them assist in cleaning up the dead bodies. Then when they had made the whole place quite clean and orderly, they took the women out and hemmed them in the narrow space between the wall of the domed room and that of the yard, so that they could not get away: and Telemachus said to the other two, "I shall not let these women die a clean death, for they were insolent to me and my mother, and used to sleep with the suitors." So saying he made a ship's cable fast to one of the bearing-posts that supported the roof of the domed room, and secured it all around the building, at a good height, lest any of the women's feet should touch the ground; and as thrushes or doves beat against a net that has been set for them in a thicket just as they were getting to their nest, and a terrible fate awaits them, even so did the women have to put their heads in nooses one after the other and die most miserably. Their feet moved convulsively for a while, but not for very long.10 The Odyssey's treatment of these events demonstrates how ancient Greek moral intuitions differ from ours. It does not dwell on the brutality of Telemachus, who has killed twelve women for the trivial reasons he states, making sure they suffer as they die. While gods and men seek vengeance for many other great and small offenses in the Odyssey, no finds this mass murder worth avenging. It is a minor event in the denouement to a happy ending in which Odysseus (who first proposes killing the women) returns home and Telemachus becomes a man. That the[y] Greeks could so easily regard these murders as part of a happy ending for heroes shows how deeply we disagree with them. It is as if we gave the Greeks a trolley problem with the 12 women on the side track and no one on the main track, and they judged it permissible for Telemachus to turn the trolley and kill them all. This all appears not in some esoteric text of a despised or short-lived sect, but one of the central works of a long-lived and influential culture. Human history offers similarly striking examples of disagreement on a variety of topics. These include sexual morality; the treatment of animals; the treatment of other ethnicities, families, and social classes; the consumption of intoxicating substances; whether and how one may take vengeance; slavery; whether public celebrations are acceptable; and gender roles.11 One can only view the human past and much of the present with horror at the depth of human moral error and the harm that has resulted. One might think to explain much of this disagreement away as the result of differing nonmoral beliefs. Those who disagree about nonmoral issues may disagree on the moral rightness of a particular action despite agreeing on the fundamental moral issues. For example, they may agree that it is right to heal the sick, but disagree about whether a particular medicine will heal or harm. This disagreement about whether it is right to prescribe the medicine will not be fundamentally about morality, and will not support the argument from disagreement. I do not think the moral disagreements listed above are explained by differences in nonmoral belief. This is not because sexists, racists, and bigots share the nonmoral views of those enlightened by feminism and similar egalitarian doctrines – they do not. Rather, their differing views on nonmoral topics often are rationalizations of moral beliefs that fundamentally disagree with ours.12 Those whose fundamental moral judgments include commitments to the authority of men over women, or of one race over another, will find it easy to accept descriptive psychological views that attribute less intelligence or rationality to women or the subjugated race.13 Moral disagreement supposedly arising from moral views in religious texts is similar. Given how rich and many-stranded most religious texts are, interpretive claims about their moral teachings often tell us more about the antecedent moral beliefs of the interpreter than about the text itself. This is why the same texts are interpreted to support a wide variety of differing moral views. Similar phenomena occur with most moral beliefs. Environmentalists who value a lovely patch of wilderness will easily believe that disaster will result from its destruction, those who feel justified in eating meat will easily believe that the animals they eat do not suffer greatly, and libertarians who feel that redistributing wealth is unjust will easily believe that it raises unemployment. We should not assume that differing moral beliefs on practical questions result from fundamental moral agreement combined with differing nonmoral beliefs. They often result from fundamental moral disagreements generating the differing nonmoral beliefs, as 2 claims. As we have no precise way of quantifying the breadth of disagreement or determining its epistemic consequences, it is unclear exactly how much disagreement the argument requires. While this makes the argument difficult to evaluate, it should not stop us from proceeding, as the unclear notion of widespread disagreement is one that we must employ in ordinary epistemic practice. If 99 [percent].9% of botanists agree on some issue about plants, non-botanists should defer to their authority and believe as the vast majority does. But if disagreement between botanists is suitably widespread, non-botanists should remain agnostic. It would help to have a more precise and systematic account of when disagreement is widespread enough to generate particular epistemic consequences. Until we do, we must employ the unclear notion of widespread disagreement, or some similar notion, throughout epistemic practice. Against the background of widespread moral disagreement, there may still be universal or near-universal agreement on some moral questions. For example, perhaps all cultures agree that one should provide for one’s elderly parents, even though they generally disagree elsewhere. How do these narrow areas of moral agreement affect the argument? Narrow agreement can defeat the argument from disagreement if it results from a reliable process of belief-formation that lets us avoid error. But we should beware of retaining agreed-upon moral beliefs produced by powerful and unreliable processes that lead everyone to the same errors. While there might be pressure to explain agreement in terms of reliable processes in some cases, this does not hold when disagreement is widespread. Explaining agreement in terms of reliable processes would be preferable if moral beliefs were generally true. Then we would want to understand cases of agreement in line with the general reliability of processes producing moral belief. But if disagreement and thus error are widespread, we will be more open to explaining agreement in terms of unreliable processes, as moral beliefs are so often formed through processes that lead to error. We have many plausible explanations of narrow agreement on which moral beliefs are unreliably caused. Evolutionary and sociological explanations of why particular moral beliefs are widely accepted often invoke unreliable mechanisms.14 According to these explanations, agreement results from some moral beliefs having been so essential to reproductive fitness that natural selection made them innate in us, or so important to the interests that control moral education in each human culture that they were inculcated in everyone. For example, parental influence over their children's moral education would explain agreement that one ought to provide for one's elderly parents. On any plausible normative ethical theory, these evolutionary and sociological explanations will not systematically connect moral beliefs with the moral facts. If there is widespread error, they will gain plausibility, allowing us to reconcile unusual cases of widespread agreement with the general unreliability of the processes producing moral belief. 1.3 If there is widespread error about a topic, we should retain only those beliefs about it formed through reliable processes Now I will defend 3. First, I will show how the falsity of others' beliefs undermines one's own belief. Then I will clarify the notion of a reliable process. I will consider a modification to 3 that epistemic internalists might favor, and show that the argument accommodates it. I will illustrate 3's plausibility by considering cases in which it correctly guides our reasoning. Finally, I will show how 3 is grounded in the intuitive response to grave moral error. First, a simple objection: “Why should I care whether other people have false beliefs? That is a fact about other people, and not about me. Even if most people are wrong about some topic, I may be one of the few right ones, even if there is no apparent reason to think that my way of forming beliefs is any more reliable.” While widespread error leaves open the possibility that one has true beliefs, it reduces the probability that my beliefs are true. Consider a parallel case. I have no direct evidence that I have an appendix, but I know that previous investigations have revealed appendixes in people. So induction supports believing that I have an appendix. Similarly, I know on the basis of 1 and 2 that **people's moral beliefs are, in general, rife with error. So even if I have no direct evidence of error in my moral beliefs, induction suggests that they are rife with error as well.** 3 invokes the reliability of the processes that produce our beliefs. **Assessing processes of belief-formation for reliability is an essential part of our** **epistemic practices. If someone tells me** that **my belief is** entirely **produced by wishful thinking**, I cannot simply accept that and maintain the belief. Knowing that wishful thinking is unreliable, **I must either deny** that **my belief is entirely caused by wishful thinking or abandon the belief**. But if someone tells me that my belief is entirely the result of visual perception, I will maintain it, assuming that it concerns sizable nearby objects or some other topic on which visual perception is reliable. While it is hard to provide precise criteria for individuating processes of belief-formation, as the literature on 11 the generality problem for reliabilism attests, individuating them somehow is indispensable to our epistemic practices.15 Following Alvin Goldman's remark that “It is clear that our ordinary thought about process types slices them broadly” (346), I will treat cognitive process types like wishful thinking and visual perception as appropriately broad.16 Trusting particular people and texts, meanwhile, are too narrow. Cognitive science may eventually help us better individuate cognitive process types for the purposes of reliability assessments and discover which processes produce which beliefs. Epistemic internalists might reject 3 as stated, claiming that it is not widespread error that would justify giving up our beliefs, but our having reason to believe that there is widespread error. They might also claim that our justification for believing the outputs of some process depends not on its reliability, but on what we have reason to believe about its reliability. The argument will still go forward if 3 is modified to suit internalist tastes, changing its antecedent to “If we have reason to believe that there is widespread error about a topic” and/or changing its consequent to “we should retain only those beliefs about it that we have reason to believe were formed through reliable processes.” While 3's antecedent might itself seem unnecessary on the original formulation, it is required for 3 to remain plausible on the internalist modification. Requiring us to have reason to believe that any of our belief-formation processes are reliable before retaining their outputs might lead to skepticism. The antecedent limits the scope of the requirement to cases of widespread error, averting general skeptical conclusions. The argument will still attain its conclusion under these modifications. Successfully 15 Earl Conee and Richard Feldman, “The Generality Problem for Reliabilism,” Philosophical Studies 89 (1998):1-29. The generality problem seeems to apply to all plausible epistemological views, as argued by Juan Comesaña, “A Well-Founded Solution to the Generality Problem,” Philosophical Studies 129 (2006): 27-47. 16 Alvin Goldman, “What is Justified Belief?” in Sosa and Kim (eds.), Epistemology: An Anthology, Massachusetts: Blackwell (2000). 12 defending the premises of the argument and deriving widespread error (5) and unreliability (7) gives those of us who have heard the defense and derivation reason to believe 5 and 7. This allows us to derive 8. (Thus the pronoun 'we' in 3, 6, and 8.) 3 describes the right response to widespread error in many actual cases. Someone in the 12th century, especially upon hearing the disagreeing views of many cultures regarding the origins of the universe, would do well to recognize that error on this topic was widespread and retreat to agnosticism about it. Only when modern astrophysics extended reliable empirical methods to cosmology would it be rational to move forward from agnosticism and accept a particular account of how the universe began. Similarly, there is usually widespread disagreement among investors about which stocks will perform better than average, suggesting that one's beliefs on the matter have a high likelihood of error. It is wise to remain agnostic about the stock market without a way of forming beliefs with above-average reliability – for example, the sort of secret insider information that it is illegal to trade on. 3 permits us to hold fast to our moral beliefs in individual cases of moral disagreement, suggesting skeptical conclusions only when moral disagreement is widespread. **When we consider a single culture's abhorrent moral views**, like the Greeks' acceptance of Telemachus and Odysseus' murders of the servant women, our immediate thought is not that perhaps the Greeks were right to see nothing wrong and we should reconsider our outrage. Instead, **we are horrified** by their grave moral error. I think this is the right response. **We are similarly horrified by** the **moral errors of** Hindus who burned widows on their husbands' **funeral pyres,** American Southerners who supported **slavery and segregation,** our **contemporaries who condemn homosexuality, and** countless **others**. The **sheer number of cases like this then requires us to regard moral error as a pervasive feature of the human condition**. Humans typically form moral beliefs through unreliable processes and have appendixes. As we are human beings, this should reduce our confidence in our moral judgments. The prevalence of error in a world full of moral 13 disagreement demonstrates how bad humans are at forming true moral beliefs, undermining our own moral beliefs. **Wary of** the **unreliable processes that** so often **lead humans to** their **moral beliefs, we will need** our **moral beliefs to issue from reliable processes.**

Phenomenal introspection is generally reliable and proves pleasure is objectively good.

Sinhababu 2 Neil Sinhababu (National University of Singapore) “The epistemic argument for hedonism” <http://philpapers.org/archive/SINTEA-3> JW

To use phenomenal introspection is to look inward at one's subjective experience, or phenomenology, and determine what it is like. One can use phenomenal introspection [it] reliably while dreaming or hallucinating, as long as one can determine what the dream or hallucination is like. By itself, phenomenal introspection [it] produces no beliefs about things outside experience, or about relations between our experiences and non-experiential things. It cannot by itself produce judgments about the rightness of actions or the goodness of non-experiential things, as these are located outside of experience. Phenomenal introspection can be wrong, but [it] is generally reliable. As experience is rich in detail, one could get some of the details wrong in one's belief. Under adverse conditions when one has false expectations about what one's experiences will be, or when one is in an extreme emotional state, one might make larger errors. Paradigmatically reliable processes like vision share these failings. Vision sometimes produces false beliefs under adverse conditions, or when we are looking at complex things. It is, nevertheless, fairly reliable. The view that phenomenal introspection is unreliable about our phenomenal states is about as radical as skepticism about the reliability of vision. While contemporary psychologists reject introspection into one's motivations and other causal processes as unreliable, phenomenal introspection fares better. Daniel Kahneman, for example, writes that “experienced utility is best measured by moment-based methods that assess the experience of the present.”20 Even those most skeptical about the reliability of phenomenal introspection, like Eric Schwitzgebel, concede that we can reliably introspect whether we are in serious pain.21 Then we should be able to introspectively determine what pain is like. I assume the reliability of phenomenal introspection in what follows. One can form a variety of beliefs using phenomenal introspection. For example, one can believe that one is hav[e]ing sound experiences of particular noises and visual experiences of different shades of color. When looking at a lemon and considering the phenomenal states that are yellow experiences, one can form some beliefs about their intrinsic features – for example, that they are bright experiences. And when considering experiences of pleasure, one can make some judgments about their intrinsic features – for example, that they are good experiences. Just as one can look inward at one's experience of lemon yellow and appreciate its brightness, one can look inward at one's experience of pleasure and appreciate its goodness.22 When I consider a situation of increasing pleasure, I can form the belief that things are better than they were before, in the same way I form the belief that there is more brightness in my visual field as lemon yellow replaces black. And when I suddenly experience pain, I can form the belief that things are worse in my experience than they were before. "Pleasure" here refers to the hedonic tone of experience. Having pleasure consists in one's experience having this hedonic tone. Without descending into metaphor, it is hard to give a further account of what pleasure is like than to say that when one has it, one feels good. As Aaron Smuts writes in defending the view of pleasure as hedonic tone, “to 'feel good' is about as close to an experiential primitive as we get.”23 Some philosophers, like Fred Feldman, see pleasure as fundamentally an attitude rather than a hedonic tone.24 But as long as hedonic tones – good and bad feelings – are real components of experience, phenomenal introspection will reveal pleasure's goodness. Opponents of the hedonic tone account of pleasure usually concede that hedonic tones exist, as Feldman seems to in discussing “sensory pleasures,” which he thinks his view helps us understand. Even on his view of pleasure, phenomenal introspection can produce the belief that some hedonic tones are good while others are bad. There are many different kinds of pleasant experiences. There are sensory pleasures, like the pleasure of tasting delicious food, receiving a massage, or resting your tired limbs in a soft bed after a hard day. There are the pleasures of seeing that our desires are satisfied, like the pleasure of winning a game, getting a promotion, or seeing a friend succeed. These experiences differ in many ways, just as the experiences we have when looking at lemons and the sky on a sunny day differ. It is easy to see the appeal of Feldman's view that pleasures “have just about nothing in common phenomenologically” (79). But just as our experiences in looking at lemons and the sky on a sunny day have brightness in common, pleasant experiences all have “a certain common quality – feeling good,” as Roger Crisp argues (109).25 As the analogy with brightness suggests, hedonic tone is phenomenologically very thin, and usually mixed with a variety of other experiences.26 Pleasure of any kind feels good, and displeasure of any kind feels bad. These feelings may or may not have bodily location or be combined with other sensory states like warmth or pressure. “Pleasure” and “displeasure” mean these thin phenomenal states of feeling good and feeling bad. As Joseph Mendola writes, “the pleasantness of physical pleasure is a kind of hedonic value, a single homogenous sensory property, differing merely in intensity as well as in extent and duration, which is yet a kind of goodness” (442). 27

This justifies util.

Sinhababu 3 Neil Sinhababu (National University of Singapore) “The epistemic argument for hedonism” <http://philpapers.org/archive/SINTEA-3> JW

The parallel between yellow’s brightness and pleasure’s goodness demonstrates the objectivity of the value detected in phenomenal introspection. Just as anyone's yellow experiences objectively are bright experiences, anyone's pleasure objectively is a good experience.28 While one's phenomenology is often called one's “subjective experience”, this does facts about it are still objective. “Subjective” in “subjective experience” means “internal to the mind”, not “ ontologically dependent on attitudes towards it.” My yellow-experiences are objectively bright, so that anyone who thought my yellow-experiences were not bright would be mistaken. Pleasure similarly is objectively good – it is true that anyone's pleasure is good, and anyone who denies this is mistaken. As Mendola writes, “In the phenomenal value of phenomenal experience, we have a plausible candidate for objective value” (712). Even though phenomenal introspection only tells me about my own phenomenal states, I can know that others' pleasure is good. Of course, I cannot phenomenally introspect their pleasures any more than I can phenomenally introspect pleasures that I will experience next year. But if I consider my experiences of lemon yellow and ask what it would be like if others had the same experiences, I must think that they would be having bright experiences. Similarly, if in a pleasant moment I consider what it is like when others have exactly the experience I am having, I must think that they are having good experiences. If they have exactly the same experiences I am having, their experiences will have exactly the same intrinsic properties as mine. This is also how I know that if I have the same experience in the future, it will have the same intrinsic properties. Even though the only pleasure I can introspect is mine now, I should believe that pleasures experienced by others and myself at other times are good, just as I should believe that yellow experienced by others and myself at other times is bright. My argument thus [this] favors the kind of universal hedonism that supports utilitarianism, not egoistic hedonism.

#### Outweighs the aff framework.

Sinhababu 4 Neil (National University of Singapore) “The epistemic argument for hedonism” [http://philpapers.org/archive/SINTEA-3 accessed 2-4-16](http://philpapers.org/archive/SINTEA-3%20accessed%202-4-16) JW

A full moral theory including accounts of rightness and virtue can be built from the deliverances of phenomenal introspection combined with conceptual analysis. Shaver, Kagan, and I suggest that phenomenal introspection reveals pleasure to have a kind of goodness that makes states of affairs better in consequentialist moral theories. A state of affairs thus is pro tanto better as there is more pleasure and pro tanto worse as there is more displeasure. More pleasure makes states of affairs better. Conceptual analysis here connects the concept of goodness with the concept of a better state of affairs, and with other moral concepts like rightness and virtue. Even if conceptual analysis cannot connect the moral and the nonmoral as a full normative ethical theory requires, it reveals connections between our moral concepts. For example, the following propositions or something like them seem to be conceptual truths: states of affairs are pro tanto better insofar as they include more goodness, an action is pro tanto better insofar as it causally contributes to better states of affairs, and agents are pro tanto more virtuous insofar as they desire that better states of affairs obtain. These putative conceptual truths about pro tanto relations do not contradict strong forms of deontology, as they allow that obligations may trump good consequences in determining right action. Utilitarians who build their theories along these lines can treat deontology as a conceptually coherent position whose substantive claims are in fact not favored by evidence from any reliable processes. So they need not treat utilitarianism itself as a conceptual truth and run afoul of Moore's open question argument. If the argument from disagreement forces us to abandon belief in all other moral facts, introspecting pleasure's goodness and following these conceptual pro tanto connections to conclusions involving other moral concepts may be the only way to develop a full moral theory through reliable processes.

Thus, the standard is maximizing happiness.

Prefer the standard:

1] THEORY: ethical frameworks must be theoretically legitimate. Any standard is an interpretation of the word ought-thus framework is functionally a topicality argument about how to define the terms of the resolution. Definitions should be subject to theoretical contestation in the same way other words should be. My framework interprets ought as maximizing happiness. Prefer this definition:

**A.** Ground- every impact can function under my standard but other ethics exclude arguments and flow to one side- kills fairness since we both need arguments to win.

**B.** Topic lit- most articles are written through the lens of util because they’re crafted for policymakers and the general public who take consequences to be important, not philosophy majors. Key to fairness and education- the lit is where we do research and determines how we engage in the round.

**C.** Topic education- util forces us to read arguments about the impacts of the res in the real world and not get caught up in abstract ethics debates- key to education because we only have the topic for two months and need to learn about current events.

Fairness is a voter since debate is a competitive activity-no debater ought to have an advantage otherwise you’re picking the better cheater. Education is a voter since it’s why schools fund debate and also provides portable skills for the real world. This is a framework warrant, not a reason to drop the debater.

2. REDUCTIONISM: Personal identity does not exist since its division creates contradictions.

Olson Eric T. (Professor of Philosophy at the University of Sheffield) “Personal Identity” Stanford Encyclopedia of Philosophy Aug 20, 2002; substantive revision Oct 28, 2010 <http://plato.stanford.edu/entries/identity-personal/#PsyApp> JW

Whatever psychological continuity may amount to, a more serious worry for the Psychological Approach is that you could be psychologically continuous with two past or future people at once. **If your cerebrum**—the upper part of the brain largely responsible for mental features—**were transplanted, the recipient would be** psychologically continuous with **you** by anyone's lights (even if there would also be important psychological differences). The Psychological Approach implies that she would be you. If we destroyed one of your cerebral hemispheres, the resulting being would also be psychologically continuous with you. (Hemispherectomy—even the removal of the left hemisphere, which controls speech—is considered a drastic but acceptable treatment for otherwise-inoperable brain tumors: see Rigterink 1980.) What **if we** did both at once, **destroy**ing **one hemisphere and transplant**ing **the other**? Then too, **the one who got the transplant**ed hemisphere would be psychologically continuous with you, and according to the Psychological Approach **would be you.** But now **suppose** that **both hemispheres are transplanted, each into a different empty head.** (We needn't pretend, as some authors do, that the hemispheres are exactly alike.) **The two recipients**—call them Lefty and Righty—**will each be** psychologically continuous with **you.** The Psychological Approach as I have stated it implies that any future being who is psychologically continuous with you must be you. It follows that you are Lefty and also that you are Righty. **But that cannot be**: Lefty and Righty are two, and **one thing cannot be** numerically identical with **two things.** Suppose Lefty is hungry at a time when Righty isn't. If you are Lefty, you are hungry at that time. If you are Righty, you aren't. If you are Lefty and Righty, you are both hungry and not hungry at once: **a contradiction.**

That takes out the aff- we can’t conceptualize the nature of action if we don’t have coherent identities

#### 3. Non-natural moral facts are epistemology inaccessible.

**Papineau 07** – (David [David Papineau is an academic philosopher. He works as Professor of Philosophy of Science at King's College London, having previously taught for several years at Cambridge University and been a fellow of Robinson College, Cambridge], “Naturalism”. [http://plato.stanford.edu/entries/naturalism/](http://plato.stanford.edu/entries/naturalism/)) 2007)

Moore took this argument to show that moral facts comprise a distinct species of non-natural fact. However, any such non-naturalist view of morality faces immediate difficulties, deriving ultimately from the kind of causal closure thesis discussed above. If **all physical effects are due to a limited range of natural causes, and if moral facts lie outside this range, then it follow that moral facts can never make any difference to what happens in the physical world** (Harman, 1986). At first sight **this** may seem tolerable (perhaps moral facts indeed don't have any physical effects). But it **has** **very awkward epistemological consequences.** For beings like us, **knowledge of the spatiotemporal world is mediated by physical processes involving our sense organs and cognitive systems. If moral facts cannot influence the physical world, then [we can’t] it is hard to see how we can have any knowledge of them.**

#### It is a natural fact that pain is bad

Nagel 86

Thomas Nagel, The View From Nowhere, HUP, 1986: 156-168.

I shall defend the unsurprising claim that **sensory pleasure is good and pain bad**, no matter whose they are**.** The point of the exercise is to see how the pressures of objectification operate in a simple case. Physical pleasure and pain do not usually depend on activities or desires which themselves raise questions of justification and value. **They are just sensory experiences** in relation to which we are fairly passive, but **toward which we feel involuntary desire or aversion**. Almost **[E]veryone takes the avoidance of his own pain and the promotion of his own pleasure as subjective reasons for action in a fairly simple way; they are not back[ed] up by any further reasons.**

### DA

#### Courts are overworked in the squo—judges are at the edge and one big push collapses the judiciary.

Gersham 15 Jacob Gershman “Federal Judge Says His Overworked Colleagues Bench Close to Burnout” Wall Street Journal November 12th 2015

Judges in federal trial courts have for some time expressed concern about the ever-growing backlog of civil cases. The workload complaint from the judiciary appears to be getting more urgent. The chief judge of the U.S. District Court for the Eastern District of California says he fears his colleagues are reaching a breaking point. In an interview with a local news channel, Chief U.S. District Judge Morrison England said he and the five other judges on his bench are sometimes working more than 80 hours a week trying to make a dent in the pile of pending cases. “The active judges that I’ve spoken to are starting to say, ‘I don’t want to do this anymore,’ or they’re leaving the bench, because it’s just too much,” Judge England told KCRA 3 in Sacramento. “We’re doing everything we possibly can to try to come up with new and inventive ways to get the cases out. But, we’re at a crisis point.” The number of cases filed per judge in California’s Eastern District has been almost twice the national average, according to recent statistics. The court has 5,880 civil cases pending as of the end of 2014, according to the Administrative Office of the United States Courts. That’s a slight increase over the year before and works out to just under a thousand pending cases per judge. Judge England told The Wall Street Journal earlier this year that some of his cases are nearly a decade old, including a suit that’s imperiled because a key witness recently died. The California district isn’t the only jurisdiction stretched thin. WSJ reported that a combination of factors are contributing to a backlog in federal trial courts across the nation. The reasons include population shifts, politics and a surge in the number of federal prisoners. The article noted that only Congress can create new judge positions (or move them from slower-growing regions to faster-growing ones), but efforts to hire more judges have met political resistance.

#### Most people own handguns and would nullify strong gun control-also terminal defense to aff solvency.

Jacobs 04 James (Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice New York University School of Law) Can Gun Control Work? “Impediments to More Gun Controls” 2004 Oxford Scholarship Online JW

U.S. federalism, a large and entrenched gun subculture, the lobbying strength of the NRA, and the widespread belief of millions of Americans that the Constitution guarantees their right to keep and bear arms pose major political obstacles to the passage of federal gun controls, other than those directed at punishing criminal use of guns. Beyond that, the fervent belief by a large percentage of gun owners that gun controllers ultimately intend to confiscate all personal firearms means that if any strong gun controls were enacted, they would encounter widespread noncompliance and resistance, including jury nullification. Since approximately 45% of American households contain a firearm, there is nearly a 100% chance that every 12-person jury will contain at least one gun owner, which is all that would be needed to prevent conviction.

#### Jury nullification causes court clog-turns trials into legislative debates.

Frothingham 10 Stephen Frothingham (Associated Press) “Allowing juries to judge law ?disastrous?” posted May 21st 2003, updated December 17th 2010 http://www.seacoastonline.com/article/20030521/News/305219985

New Hampshire would become the only state with jury instructions allowing so-called jury nullification, which also is banned in federal courts. The Senate judiciary committee voted 3-2 on Tuesday to not support passage of the bill, which has passed the House. Judges would have to give the jury instruction if the defense requested it, which legal experts said would be almost every time. Proponents said empowering juries would keep the three branches of government in check. "The people are the ultimate source of our operation as a government," the bill's sponsor, Rep. Richard Marple, R-Hooksett, told a state Senate committee on Tuesday. However, prosecutors, police and court officials said the bill would tip the scales of justice too far toward the defendant and clog the court system with more trials, longer trials, and mistrials. "The practical application of this bill would be disastrous upon our criminal justice system," Attorney General Peter Heed told the committee. Heed said the bill would turn trials into "mini-referendums" on laws. He noted that while the Legislature passes laws by a simple majority, prosecutors would have to get the unanimous support of the jury to convict someone under the law.

#### Federal court clog collapses the federal judiciary – overburdens dockets, expansion can't keep pace

Oakley 96 ~John B. Oakley, Distinguished Professor of Law Emeritus US Davis School of Law, 1996 The Myth of Cost-Free Jurisdictional Reallocation~

￼Personal effects: The hidden costs of greater workloads. The hallmark of federal justice traditionally has been the searching analysis and thoughtful opinion of a highly competent judge, endowed with the time as well as the intelligence to grasp and resolve the most nuanced issues of fact and law. Swollen dockets create assembly-line conditions, which threaten the ability of the modern federal judge to meet this high standard of quality in federal adjudication. No one expects a federal judge to function without an adequate level of available tangible resources: sufficient courtroom and chambers space, competent administrative and research staff, a good library, and a comfortable salary that relieves the judge from personal financial pressure. Although salary levels have lagged—encouraging judges to engage in the limited teaching and publication activities that are their sole means of meeting such newly pressing financial obligations as the historically high mortgage expenses and college tuitions of the present decade—in the main, federal judges have received a generous allocation of tangible resources. It is unlikely that there is any further significant gain to be realized in the productivity of individual federal judges through increased levels of tangible resources,13 other than by redressing the pressure to earn supplemental income.14 On a personal level, the most important resource available to the federal judge is time.15 Caseload pressures secondary to the indiscriminate federalization of state law are stealing time from federal judges, shrinking the increments available for each case. Federal judges have been forced to compensate by operating more like executives and less like judges. They cannot read their briefs as carefully as they would like, and they are driven to rely unduly on law clerks for research and writing that they would prefer to do themselves.16 If federal judges need more time to hear and decide each case, an obvious and easy solution is to spread the work by the appointment of more and more federal judges. Congress has been generous in the recent creation of new judgeships,17 and enlargement of the federal judiciary is likely to continue to be the default response, albeit a more grudging one, to judicial concern over the caseload consequences of jurisdictional reallocation. Systemic effects: The hidden costs of adding more judges. Increasing the size of the federal judiciary creates institutional strains that reduce and must ultimately rule out its continued acceptability as a countermeasure to caseload growth. While the dilution of workload through the addition of judges is always incrementally attractive, in the long run it will cause the present system to collapse. I am not persuaded by arguments that the problem lies in the declining quality of the pool of lawyers willing to assume the federal bench18 or in the greater risk that, as the ranks of federal judges expand, there will be more frequent lapses of judgment by the president and the Senate in seating the mediocre on the federal bench.19 In my view, the diminished desirability of federal judicial office is more than offset by the rampant dissatisfaction of modern lawyers with the excessive commercialization of the practice of law. There is no shortage of sound judicial prospects will￼ing and able to serve, and no sign that the selection process—never the perfect meritocracy—is becoming less effective in screening out the unfit or undistinguished. Far more serious are other institutional effects of continuously compounding the number of federal judges. Collegiality among judges, consistency of decision, and coherence of doctrine across courts are all imperiled by the growth of federal courts to cattle-car proportions. Yet the ability of the system to tolerate proliferation of courts proportional to the proliferation of judges is limited, and while collapse is not imminent, it cannot be postponed indefinitely. Congress could restructure the federal trial and appellate courts without imperiling the core functions, but the limiting factor is the capacity of the Supreme Court to maintain overall uniformity in the administration and application of federal law. That Court is not only the crown but the crowning jewel of a 200-year-old system of the rule of law within a constitutional democracy, and any tinkering with its size or jurisdiction would raise the most serious questions of the future course of the nation.

#### Separation of power solves unaccountable decisions to go to war – causes extinction.

Adler 96 (David, professor of political science at Idaho State, The Constitution and Conduct of American Foreign Policy, p. 23-25)

The structure of shared powers in foreign relations serves to deter the abuse of power, misguided policies, irrational action, and unaccountable behavior. As a fundamental structural matter, the emphasis on joint policymaking permits the airing of sundry political, social, and economic values and concerns. In any event, the structure wisely ensures that the ultimate policies will not reflect merely the private preferences or the short-term political interests of the president. Of course this arrangement has come under fire in the postwar period on a number of policy grounds. Some critics have argued, for example, that fundamental political and technological changes in the character of international relations and the position of the United States in the world have rendered obsolete an eighteenth-century document designed for a peripheral, small state in the European system of diplomatic relations. Moreover, it has been asserted that quick action and a single, authoritative voice are necessary to deal with an increasingly complex, interdependent, and technologically linked world capable of massive destruction in a very short period of time. Extollers of presidential dominance have also contended that only the president has the qualitative information, the expertise, and the capacity to act with the necessary dispatch to conduct U.S. foreign policy. These policy arguments have been reviewed, and discredited, elsewhere; space limitations here permit only a brief commentary. Above all else, the implications of U.S. power and action in the twentieth century have brought about an even greater need for institutional accountability and collective judgment that existed 200 years ago. The devastating, incomprehensible destruction of nuclear war and the possible extermination of the human race demonstrate the need for joint participation, as opposed to the opinion of one person, in the decision to initiate war. Moreover, most of the disputes at stake between the executive and legislative branches in foreign affairs, including the issues discussed in this chapter, have virtually nothing to do with the need for rapid response to crisis. Rather, they are concerned only with routine policy formulation and execution, a classic example of the authority exercised under the separation of powers doctrine. But these functions have been fused by the executive branch and have become increasingly unilateral, secretive, insulated from public debate, and hence unaccountable. In the wake of Vietnam, Watergate, and the Iran-Contra scandal, unilateral executive behavior has become even more difficult to defend. Scholarly appraisals have exploded arguments about intrinsic executive expertise and wisdom on foreign affairs and the alleged superiority of information available to the president. Moreover, the inattentiveness of presidents to important details and the effects of “group-think” that have dramatized and exacerbated the relative inexperience of various presidents in international relations have also devalued the extollers arguments. Finally, foreign policies, like domestic policies, are a reflection of values. Against the strength of democratic principles, recent occupants of the White House have failed to demonstrate the superiority of their values in comparison to those of the American people and their representatives in Congress

### T

A. Interpretation: the aff must defend a handgun ban with both fines AND a possible prison sentence.

B. Violation: their aff is plans

C. Standards:

1. Ground. Aff has the best ground on this topic because they can defend any moral intention based framework that says violence is bad and automatically get offense. Racist enforcement is key neg ground because it checks back against aff implementation and gives me an offensive out whereas without pointing out implementation flaws I lose hard. The fines plan kills my ability to read these because you don’t defend imprisoning people, rather just docking them some money. If I don’t get to make key objections like imprisoning people hard, you just auto-win on solvency.

2. Normal means. Handgun bans in congress are fines AND a prison sentence.

Jacobs 04 James (Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice New York University School of Law) Can Gun Control Work? “Prohibition and Disarmament” 2004 Oxford Scholarship Online JW

In 1973, Representative Ronald Dellums (D-Calif.) introduced the first federal handgun prohibition bill.5 It aimed to prevent lawless and irresponsible use of firearms by prohibiting “the importation, manufacture, sale, (p.157) purchase, transfer, receipt, possession, or transportation of handguns.”\* Because the bill prohibited handgun possession, all handgun owners would have to give up their arms or face the consequences. Dellums's prohibition and disarmament bill proposed a $5,000 fine and/or a prison sentence up to five years for persons convicted of possessing handguns or handgun ammunition. Pistol clubs could store handguns for licensed members, but such clubs themselves would have to be licensed by the secretary of the treasury. Firearms could only be transported with the approval of a law enforcement agency. Under Dellums's proposal, handguns could only be sold by licensed dealers and only to licensed pistol club members, importers, manufacturers, and other dealers. Federal and state law enforcement personnel and state licensed security guards would continue to be lawfully armed. The federal government would offer to purchase all privately owned handguns for either $25 or the market value of the gun, whichever was higher.

That’s how felony possession laws work.

Jacobs 04 James (Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice New York University School of Law) Can Gun Control Work? “Prohibition and Disarmament” 2004 Oxford Scholarship Online JW

We can get a sense of the magnitude of the compliance problem by looking at the success of our current prohibition on possession that applies to persons with a felony record. Hundreds of thousands, perhaps millions, of ex-felons currently possess handguns illegally, despite the federal felonin- possession law's threat of a 10-year maximum federal prison sentence. We can also obtain a perspective on compliance by looking at what happened when, in 1995, several states required registration of assault rifles. In California, only 10% of about 300,000 assault weapons owners registered their weapons.17 Cleveland and Boston achieved an estimated 1% compliance rate. Denver authorities registered 1% of 10,000 assault rifles.18 The estimated 100,000 to 300,000 New Jersey assault rifle owners registered 947 assault rifles, rendered 888 inoperable, and turned over 4 to law enforcement personnel. It should be emphasized that these assault rifle laws were implemented in states that had produced legislative majorities for such gun controls. A federal registration requirement would (p.163) have to be enforced in states where handgun prohibition could not command a legislative majority. In those states, noncompliance would be an even greater problem, and police and prosecutors, charged with enforcing the prohibition, would have to confront jurors’ hostility.\*

Many impacts:

A. Policy education- this aff has never been proposed before, it’s just a random paragraph from an article with a suggestion- no way to evaluate implementation since we don’t have any empirical basis to compare it to, also no greater understanding of enforcement.

B. Prepskew- if this aff’s not really in the lit then you’ll be able to prep the way it interacts with all neg advocacies- the only stable basis for neg prep is how things have been done in the past since that determines how we do research. That’s key to fairness and education because I can’t engage in the aff if I can’t know what it is. AND, your author isn’t a solvency advocate, it just said it COULD be done. That heightens the abuse because theres no way to do prep on things that people don’t discuss.

C. Resolvability- no evidence means your advocacy is made up and not a real thing that could be implemented. That means we can’t have a debate about the simulated consequences of the plan since we don’t know what political checks it goes through.

D. Textuality- normal means determines usage since words are inherently social constructions. For example, when I say “right to bear arms,” the only thing that separates me meaning the right to own guns and the right to own the arms of a furry bear are that the phrase has come to mean one thing through legal tender. In the same sense, a handgun ban is defined by the

Fairness is a voter- debate’s a competitive activity with wins and losses, you need to pick the better debater

Education is a voter- schools fund debate and it’s the only portable skill we can learn.

Drop the debater- a. to deter future abuse, b. to set the best norms, c. to rectify the time lost running theory

Competing interps since 1. Reasonability is arbitrary, 2. Competing interps maximizes fairness and education in other rounds.

No RVIs- they kill substantive education because we focus the round entirely on theory.

## Case

### Fwk

Only one framework warrant here and it’s impact justified- it presumes that individuals need to form a coherent identity in order to be moral in the first place. For example, Wood 2 says that in order to form an idea of the self we need to mutually recognize others- that assumes that one can’t be moral independently. For example, I can donate to charity even if I own guns, proving the aff’s totalizing claims are wrong.

### Consequentialism O/V

#### The aff framework is consequentialist:

1. the framework warrants say alienation is only instrumentally bad because it prevents actualization of the ethical community-that means alternate considerations can override it like the disads.

2. they need to win that people are actually brought into the ethical community-otherwise it’s just a failed attempt at creating any form of subjective freedom

3. action theory-we judge action’s success by their consequences. For example if I dropped a tea kettle and gave up we wouldn’t say I was making tea.

4. more verifiable-people can lie about intentions but the consequences exist concretely